IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1130 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AJITBHAI N PANDYA

Versus

STATE OF GUJARAT AND ANOTHER

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Appearance :
MR KM PARIKH for the applicant.
MS ML SHAH, ADDL. PUBLIC PROSECUTOR for Respondent No.1.
MR MEHUL S SHAH for Respondent No. 2.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 13/01/2006

ORAL JUDGMENT

By filing this application, the applicant has prayed to quash

complaint filed by respondent No.2 before Judicial Magistrate, First Class, Petald being M. Case No. 26 of 1996, which, after order passed by the learned Magistrate for investigation under section 156 (3), CR.P.C., is numbered as Inquiry Case No. 166 of 1996.

It seems that earlier the police submitted 'A' Summary but the same was not accepted by the learned Magistrate, who ordered further investigation. At that stage, the applicant filed this application calling in question the police investigation. The complainant has filed the complaint on the ground that a 'will' is forged by the accused. It is pointed out to this Court that a Civil Suit was also filed by the applicant for the same cause but the suit is also dismissed. According to Mr. Shah, learned advocate for the respondent No.2, the Civil Court has recorded a finding that the 'will' is forged.

Learned advocate for the petitioner, Mr. Parikh, submitted that since this application is filed for quashing police investigation, he is not pressing the application at this stage in order to enable the police to carry out investigation in accordance with law. He, however, submitted that liberty may be reserved in favour of the applicant to file a fresh application in case charge sheet is filed. He, therefore, seeks permission to withdraw this application at this stage. Permission granted. This application stands disposed of as withdrawn with liberty as aforesaid. Rule is discharged. Interim Relief stands vacated.

[P. B. MAJMUDAR, J.]

mathew